

FILED

WILLIAMSPORT

UNITED STATES DISTRICT COURT

for the

Middle District of Pennsylvania

JAN 24 2019

OLLIE OTIS REAVES)

Petitioner)

v.)

JEFFREY BUTLER,)

Warden, USP Lewisburg)

Respondent)

(name of warden or authorized person having custody of petitioner)

PER

NJR

DEPUTY CLERK

Case No. 1:19-cv-0138

(Supplied by Clerk of Court)

PETITION FOR A WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241

Personal Information

1. (a) Your full name: Ollie Otis Reaves

(b) Other names you have used: N/A

2. Place of confinement:

(a) Name of institution: USP Lewisburg

(b) Address: P.O. Box 1000

Lewisburg, PA 17837

(c) Your identification number: Reg. No. 14139-067

3. Are you currently being held on orders by:

 Federal authorities State authorities Other - explain:

4. Are you currently:

 A pretrial detainee (waiting for trial on criminal charges) Serving a sentence (incarceration, parole, probation, etc.) after having been convicted of a crime

If you are currently serving a sentence, provide:

(a) Name and location of court that sentenced you: Middle District of Pennsylvania (Harrisburg)

(b) Docket number of criminal case: 1:07-cr-00104-WWC-3

(c) Date of sentencing: 05/21/2009

 Being held on an immigration charge Other (explain):

Decision or Action You Are Challenging

5. What are you challenging in this petition:

How your sentence is being carried out, calculated, or credited by prison or parole authorities (for example, revocation or calculation of good time credits)

Pretrial detention

Immigration detention

Detainer

The validity of your conviction or sentence as imposed (for example, sentence beyond the statutory maximum or improperly calculated under the sentencing guidelines)

Disciplinary proceedings

Other (explain): _____

Sentence Enhancement

6. Provide more information about the decision or action you are challenging:

(a) Name and location of the agency or court: Middle District of Pennsylvania (Harrisburg)

(b) Docket number, case number, or opinion number: 1:07-cr-00104-WWC-3

(c) Decision or action you are challenging (for disciplinary proceedings, specify the penalties imposed):

851 and career offender Enhancements.

(d) Date of the decision or action: 05/27/2009

Your Earlier Challenges of the Decision or Action

7. First appeal

Did you appeal the decision, file a grievance, or seek an administrative remedy?

 Yes No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: United States Court of Appeals for the Third Circuit

(2) Date of filing: 06/02/2009

(3) Docket number, case number, or opinion number: No. 09-2578

(4) Result: Affirmed

(5) Date of result: 07/28/2011

(6) Issues raised: Reaves contends that:

(1) District Court's decision to deny his motion to appoint new counsel;

(2) his conviction should be overturned because the District Court failed to adequately inquire into potential racial, law enforcement, and drug trafficking bias when conducting voir dire;

(3) counsel's failure to object to the District Court's voir dire violated Reaves' right to effective assistance of counsel

(4) District Court's imposition of a life sentence . . . (See Memorandum of Law in Support).

(b) If you answered "No," explain why you did not appeal: N/A

8. **Second appeal**

After the first appeal, did you file a second appeal to a higher authority, agency, or court?

Yes No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: N/A

(2) Date of filing: _____

(3) Docket number, case number, or opinion number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

(b) If you answered "No," explain why you did not file a second appeal: _____

9. **Third appeal**

After the second appeal, did you file a third appeal to a higher authority, agency, or court?

Yes No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: N/A

(2) Date of filing: _____

(3) Docket number, case number, or opinion number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

(b) If you answered "No," explain why you did not file a third appeal: N/A

10. **Motion under 28 U.S.C. § 2255**

In this petition, are you challenging the validity of your conviction or sentence as imposed?

Yes No

If "Yes," answer the following:

(a) Have you already filed a motion under 28 U.S.C. § 2255 that challenged this conviction or sentence?

Yes No

If "Yes," provide:

(1) Name of court: Middle District of Pennsylvania (Harrisburg)

(2) Case number: 1:2013-cv-00031

(3) Date of filing: 01/05/2013

(4) Result: Denied

(5) Date of result: 05/02/2013

(6) Issues raised: Reaves argued that his counsel was ineffective for the following reasons:

(1) counsel's failure to support petitioner's pro se motion for new counsel;

(2) his failure to object to the open court nature of the hearing on the motion for new counsel;

(3) his failure to object to the voir dire by the Court;

(4) his failure to object to the 21 U.S.C. § 851 sentencing enhancement; and

(5) his failure to properly advise Petitioner about the plea agreement.

(b) Have you ever filed a motion in a United States Court of Appeals under 28 U.S.C. § 2244(b)(3)(A), seeking permission to file a second or successive Section 2255 motion to challenge this conviction or sentence?

Yes No

If "Yes," provide:

(1) Name of court: N/A

(2) Case number:

(3) Date of filing:

(4) Result:

(5) Date of result:

(6) Issues raised:

(c) Explain why the remedy under 28 U.S.C. § 2255 is inadequate or ineffective to challenge your conviction or sentence: § 2255 is inadequate or ineffective by satisfying four conditions:

(1) “the existence of a new interpretation of statutory law,”

(2) “issued after the petitioner had a meaningful time to incorporate the new interpretation into his direct appeals or subsequent motions,”

(3) that is retroactive, and

(4) applies to the petition’s merits such that it is “more likely than not that no reasonable juror would have convicted” the petitioner.

11. Appeals of immigration proceedings

Does this case concern immigration proceedings?

Yes No

If “Yes,” provide:

(a) Date you were taken into immigration custody: _____

(b) Date of the removal or reinstatement order: _____

(c) Did you file an appeal with the Board of Immigration Appeals?

Yes No

If “Yes,” provide:

(1) Date of filing: _____

(2) Case number: _____

(3) Result: _____

(4) Date of result: _____

(5) Issues raised: _____

(d) Did you appeal the decision to the United States Court of Appeals?

Yes No

If “Yes,” provide:

(1) Name of court: N/A

(2) Date of filing: _____

(3) Case number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

12. **Other appeals**

Other than the appeals you listed above, have you filed any other petition, application, or motion about the issues raised in this petition?

Yes No

If "Yes," provide:

(a) Kind of petition, motion, or application:	Rule 60(b) Motion
(b) Name of the authority, agency, or court:	Middle District of Pennsylvania (Harrisburg)
(c) Date of filing:	11/27/2017
(d) Docket number, case number, or opinion number:	1:07-cr-00104-WWC-3 Doc. 470
(e) Result:	Denied
(f) Date of result:	01/23/2018
(g) Issues raised:	Motion for Relief from Judgment and Conviction, pursuant to Rule 60(b) of the Federal Rules of Civil Procedure.

Grounds for Your Challenge in This Petition

13. State every ground (reason) that supports your claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground.

GROUND ONE: Reaves' (1) prior conviction enhancement under 21 U.S.C. § 851 is null and void; and (2) prior convictions do not qualify him as a career offender requiring resentencing without the career offender enhancem

· (a) Supporting facts (*Be brief. Do not cite cases or law.*):

In light of *Descamps v. United States*, 133 S.Ct. 2276 (2013), *Mathis v. United States*, 136 S.Ct. 2243 (2016), Reaves' (1) prior conviction enhancement under 21 U.S.C. § 851 is null and void; and (2) prior convictions do not qualify him as a career offender requiring resentencing without the career offender enhancement.

See Memorandum of Law in Support.

(b) Did you present Ground One in all appeals that were available to you?

Yes No

GROUND TWO: N/A

(a) Supporting facts (*Be brief. Do not cite cases or law.*):

N/A

(b) Did you present Ground Two in all appeals that were available to you?

Yes No

GROUND THREE: N/A

(a) Supporting facts (*Be brief. Do not cite cases or law.*):

N/A

(b) Did you present Ground Three in all appeals that were available to you?

Yes No

GROUND FOUR: N/A

(a) Supporting facts (*Be brief. Do not cite cases or law.*):

N/A

(b) Did you present Ground Four in all appeals that were available to you?

Yes No

14. If there are any grounds that you did not present in all appeals that were available to you, explain why you did not: N/A

Request for Relief

15. State exactly what you want the court to do: Reaves' sentence should be vacated for resentencing without the §851 and career offender enhancements. In the alternative, an evidentiary hearing should be held so that Reaves may further prove his meritorious ground for relief, resolve any disputed facts, and expand an incomplete record.

Declaration Under Penalty Of Perjury

If you are incarcerated, on what date did you place this petition in the prison mail system:

I declare under penalty of perjury that I am the petitioner, I have read this petition or had it read to me, and the information in this petition is true and correct. I understand that a false statement of a material fact may serve as the basis for prosecution for perjury.

Date: 1/7/19

Wheath Reaves

Signature of Petitioner

N/A

Signature of Attorney or other authorized person, if any

OLLIE OTIS REAVES
REG. NO. 14139-067
USP LEWISBURG
U.S. PENITENTIARY
P.O. BOX 1000
LEWISBURG, PA 17837

January 1, 2019

Mr. Peter J. Welsh
Acting Clerk of Court
U. S. District Court
Middle District of Pennsylvania
Williamsport Division
240 West Third Street, Suite 218
Williamsport, PA 17701-6412

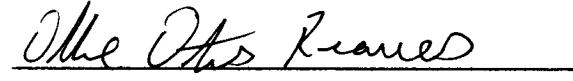
RE: *Reaves v. Butler, Warden, USP Lewisburg*
Civil No. ___:19-cv-
Crim No. 1:07-cr-00104-WWC-3

Dear Mr. Welsh:

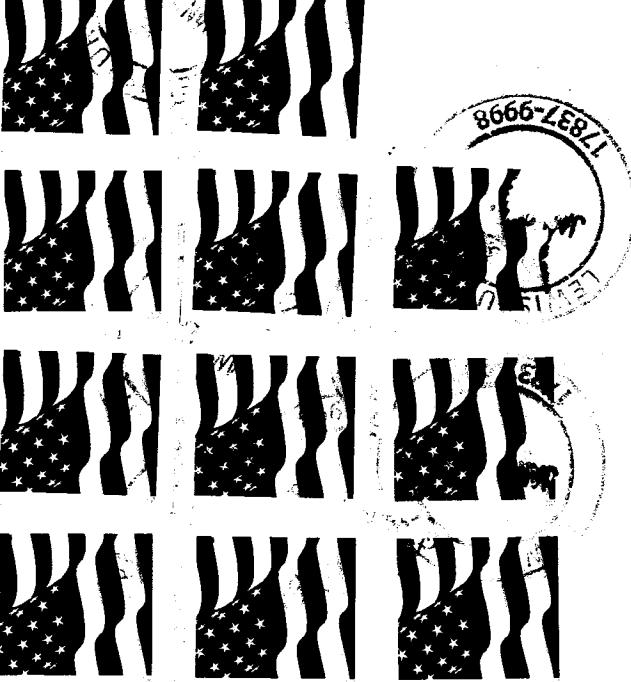
Enclosed please find and accept for filing Petitioner's Application for Writ of Habeas Corpus under 28 U.S.C. § 2241 and Memorandum of Law in Support. Please submit this document to the Court.

Thank you for your assistance in this matter.

Sincerely,


OLLIE OTIS REAVES
Appearing *Pro Se*

Encl. as noted



MR. PETER J. WELSH
Acting Clerk of Court
U.S. District Court
Middle District of Pennsylvania
Williamsport Division
240 West Third Street Suite 218
Williamsport, PA 17701-6412

Inmate Name: Ollie OTis Reaves
Register Number: 14139-067
United States Penitentiary
P.O. Box 1000
Lewisburg, PA 17837

22 JAN 2019